United States Department of Labor
Employees' Compensation Appeals Board

A.O., Appellant	)	
and	)	**Docket No. 21-0968**
	)	**Issued: March 18, 2022**
U.S. POSTAL SERVICE, POST OFFICE, Newark, NJ, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 10, 2021 appellant filed a timely appeal from a March 18, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

ISSUE

The issue is whether appellant has met her burden of proof to establish a right wrist condition causally related to the accepted November 23, 2020 employment incident.

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that, following the March 18, 2021 decision, OWCP received additional evidence and appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id*.

FACTUAL HISTORY

On November 30, 2020 appellant, then a 49-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on November 23, 2020 she injured her right hand/wrist when a large parcel slipped from her hand and caused her hand to bend backward while in the performance of duty. On the reverse side of the claim form, the employing establishment acknowledged that her injury had occurred in the performance of duty. It also indicated that appellant had previously sustained a nonoccupational hand injury. Appellant stopped work on the date of injury.

In a November 23, 2020 statement, appellant noted that she injured her right hand at work earlier that day when she was lifting a large box off of a skid, which was at least two feet off the floor. She explained that the box slipped from her hand, causing her hand to bend backward, which caused pain in her wrist. Appellant noted that she yelled out in pain and that her supervisor came to check on her. She indicated that she drafted a statement that would be seeking medical attention. In a separate statement of even date, appellant noted that when she was lifting a large parcel, it slipped and injured her right wrist.

In an undated witness statement, C.D., appellant's supervisor, noted that, on November 23, 2020 at approximately 6:30 p.m., she saw appellant return to the office with a large parcel on a skid. She stated that she witnessed appellant yell out in pain and saw the parcel was no longer on the skid. C.D. asserted that appellant was holding her arm and notified her that she had tried moving the parcel to the floor when it slipped out of her hands and hurt her right wrist. Appellant also informed C.D. that she previously had surgery on the same wrist, which was the reason why she was currently on restrictions. C.D. noted that a coworker helped appellant write her statement before she signed it.

On November 23, 2020 the employing establishment executed an authorization for examination and/or treatment (Form CA-16).

In a November 24, 2020 medical report, Dr. Paul Saccone, a cosmetic, plastic, and reconstructive surgeon, reported that a heavy box slipped onto appellant's right hand and wrist, and bent them backward at work on November 23, 2020. Appellant complained that she experienced pain in her wrist when she moved it. Dr. Saccone conducted a physical examination and diagnosed a right wrist sprain. He noted that her right hand and wrist showed some mild swelling, but no ecchymosis. Dr. Saccone also noted that appellant had decreased flexion and extension of her wrist. He indicated that she previously underwent a carpal tunnel release on September 24, 2018. In a disability certification of even date, Dr. Saccone noted that appellant was totally incapacitated and required an x-ray to further determine the extent of her injury.

A November 25, 2020 x-ray of the right wrist revealed no fracture or dislocation. In an attending physician's report, Part B of the Form CA-16, also dated November 25, 2020, Dr. Saccone again noted that a heavy box slipped onto appellant's right hand and wrist, bending them backward, at work on November 23, 2020. He reported that her right wrist was swelling with decreased flexion and extension. Dr. Saccone diagnosed right wrist sprain and checked a box marked "Yes," indicating that appellant's condition was caused or aggravated by the described employment activity. He indicated that she was unable to work.

In a December 1, 2020 medical report, Dr. Saccone reiterated his findings and diagnosed right wrist sprain and pain. In a disability certification of even date, he released appellant to return to work on December 21, 2020, but indicated that her restrictions would be reevaluated on December 15, 2020.

In a December 15, 2020 medical report, Dr. Saccone noted that appellant still experienced pain and cramping in her right wrist. He conducted a physical examination and reiterated his diagnoses. In a prescription slip of even date, Dr. Saccone prescribed occupational therapy and again diagnosed a right wrist sprain.

Appellant underwent occupational therapy treatment on December 21 and 23, 2020.

In a January 8, 2021 medical report, Dr. Saccone reported that appellant was feeling better since she began occupational therapy and that she wanted to return to work. He reiterated his findings and diagnoses. In a prescription slip of even date, Dr. Saccone again prescribed occupational therapy. In a disability certification of even date, he indicated that appellant could return to work on January 9, 2021 with restrictions.

An undated report of work status (Form CA-3) completed by the employing establishment indicated that appellant returned to full-time modified-duty work with restrictions on January 9, 2021.

In a February 5, 2021 medical report, Dr. Saccone noted that appellant was doing well after undergoing occupational therapy. He reiterated his findings and diagnoses. In a prescription slip of even date, Dr. Saccone recommended that appellant continue occupational therapy. In a disability certification of even date, he noted that appellant returned to work on January 9, 2021 with restrictions.

In a February 11, 2021 development letter, OWCP requested that appellant submit additional medical evidence in support of her claim. It afforded her 30 days to respond. No additional evidence was submitted.

By decision dated March 18, 2021, OWCP denied appellant's traumatic injury claim, finding that the medical evidence of record was insufficient to establish causal relationship between the accepted November 23, 2020 employment incident and her diagnosed right wrist sprain.

LEGAL PRECEDENT

An employee seeking benefits under FECA[3] has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,[4] that an injury was sustained in the performance of duty as alleged,

[3] *Supra* note 1.

[4] *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.[5] These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[6]

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established.[7] There are two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.[8] The second component is whether the employment incident caused a personal injury.[9]

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.[10] A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment incident must be based on a complete factual and medical background.[11] Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition, and the accepted employment incident.[12]

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship, therefore, involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.[13]

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to the accepted November 23, 2020 employment incident.

In Part B of the Form CA-16, attending physician's report, dated November 25, 2020, Dr. Saccone diagnosed a right wrist sprain indicated by checking a box marked "Yes" that the

[5] *T.H.*, Docket No. 18-1736 (issued March 13, 2019); *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[6] *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

[7] *S.S.*, Docket No. 18-1488 (issued March 11, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

[8] *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[9] *E.M.*, *id.*; *John J. Carlone*, 41 ECAB 354 (1989).

[10] *S.S.*, *supra* note 7; *Robert G. Morris*, 48 ECAB 238 (1996).

[11] *C.F.*, Docket No. 18-0791 (issued February 26, 2019); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[12] *Id.*

[13] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).

condition was caused or aggravated by an employment activity. The Board has held that a report that addresses causal relationship with a checkmark, without medical rationale explaining how the employment incident caused the alleged injury, is of diminished probative value and insufficient to establish causal relationship.[14] Dr. Saccone did not provide any rationale in support of his opinion. This report is, therefore, of diminished probative value and insufficient to establish appellant's claim.

In medical reports dated November 24, and December 1 and 15, 2020, and January 8 and February 5, 2021, Dr. Saccone reported that a heavy box slipped onto appellant's right hand and wrist, bending it backward, at work on November 23, 2020. He conducted a physical examination and consistently diagnosed a right wrist sprain. Similarly, in his December 15, 2020 prescription slip, he diagnosed a right wrist sprain. However, Dr. Saccone did not address causation in his reports. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[15] Moreover, the Board has consistently held that complete medical rationalization is particularly necessary when there is a preexisting condition involving the same body part, and has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition in such cases.[16] For these reasons, these reports are insufficient to establish appellant's claim.

OWCP received disability certifications and prescription slips from Dr. Saccone dated November 24 and December 1, 2020, and January 8 and February 5, 2021. However, Dr. Saccone did not offer a medical diagnosis or provide an opinion as to whether a diagnosed condition was causally related to the accepted employment incident. The Board has held that medical evidence that does not include a firm diagnosis or an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.[17] This evidence is, therefore, insufficient to establish appellant's claim.

Appellant also submitted occupational therapy reports dated December 21 and 23, 2020, and January 20, 2021. These documents do not constitute competent medical evidence because an occupational therapist is not considered a "physician" as defined under FECA.[18] Consequently,

[14] *D.S.*, Docket No. 21-0037 (issued May 27, 2021); *S.C.*, Docket No. 20-0327 (issued May 6, 2021); *A.R.*, Docket No. 19-0465 (issued August 10, 2020); *Gary J. Watling*, 52 ECAB 278 (2001).

[15] *See O.N.*, Docket No. 20-0902 (issued May 21, 2021); *R.C.*, Docket No. 19-0376 (issued July 15, 2019).

[16] *Supra* note 13. *See also J.H.*, Docket No. 20-1645 (issued August 11, 2021).

[17] *R.Q.*, Docket No. 20-0585 (issued September 10, 2021); *S.C.*, Docket No. 20-0492 (issued May 6, 2021).

[18] Section 8101(2) of FECA provides that a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See supra* note 13 at Chapter 2.805.3a(1) (January 2013); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); *S.J.*, Docket No. 20-1061 (issued December 22, 2020); *see also J.R.*, Docket No. 19-0812 (issued September 29, 2020) (an occupational therapist is not considered a physician under FECA).

their medical findings and/or opinions will not suffice for purposes of establishing entitlement to compensation benefits.[19]

Lastly, appellant submitted a November 25, 2020 x-ray of the right wrist. The Board has explained, however, that diagnostic studies, standing alone, lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.[20] Thus, this report is also insufficient to establish appellant's claim.

As appellant has not submitted rationalized medical evidence establishing causal relationship between her right wrist condition and the accepted November 23, 2020 employment incident, the Board finds that she has not met her burden of proof to establish her claim.[21]

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right wrist condition causally related to the accepted November 23, 2020 employment incident.

[19] *Id*.

[20] *M.B.*, Docket No. 19-1638 (issued July 17, 2020); *T.S.*, Docket No. 18-0150 (issued April 12, 2019).

[21] The Board notes that the employing establishment issued a Form CA-16. A completed Form CA-16 authorization may constitute a contract for payment of medical expenses to a medical facility or physician, when properly executed. The form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. *See* 20 C.F.R. § 10.300(c); *S.P.*, Docket No. 19-1904 (issued September 2, 2020); *J.G.*, Docket No. 17-1062 (issued February 13, 2018); *Tracy P. Spillane*, 54 ECAB 608 (2003).

ORDER

IT IS HEREBY ORDERED THAT the March 18, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 18, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board